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BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Counterproposal to)	
Amendment of Section 73.202(b))	MM Docket No. 97-131
Table of Allotments,)	RM-9155
FM Broadcast Stations.)	
(Twin Falls, Idaho))	

**REPLY COMMENTS TO COUNTERPROPOSAL TO
ALLOT FM BROADCAST STATION 294C TO HAILEY, IDAHO**

E-DA-HOE, Inc. ("E-DA-HOE"), licensee of FM radio station KSKI-FM, Sun Valley, Idaho, and applicant for a new FM broadcast station on Channel 252C1, Twin Falls, Idaho, see FCC File No. BMPH-970731MG, hereby replies to the Counterproposal filed by Hailey Local Service Company ("Petitioner") in the above-referenced proceeding, requesting that the FM broadcast station that is proposed to operate on Channel 294A in Twin Falls, Idaho, Notice of Proposed Rulemaking, DA 97-990, MM Docket No. 97-131 (released May 16, 1997), be allotted instead as Channel 294C to Hailey, Idaho.

As shown below, Petitioner's Counterproposal should be dismissed. Allotting Channel 294A to Twin Falls, Idaho would better serve the public interest by allowing a station to provide its unique local service to a larger population than the allotment proposed by the Petitioner. Further, Hailey, Idaho should not be analyzed as a single community but rather as an area integrally related to other communities that serve the Sun Valley Ski Area in Blaine County, Idaho.

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DISCUSSION

I. E-DA-HOE, INC. HAS STANDING TO FILE REPLY COMMENTS

E-DA-HOE is the licensee of KSKI-FM, Sun Valley, Idaho and an applicant for a new FM broadcast station on Channel 252C1 in Twin Falls, Idaho. If the Commission allotted Channel 294C to Hailey, Idaho, its proposed contour would overlap with the KSKI-FM contour. E-DA-HOE would compete with the station that will operate on Channel 294C for listeners and advertising revenue. Therefore, E-DA-HOE's interests will be adversely affected if Channel 294C is allotted to Hailey See, e.g. Ted Tucker and Jana Tucker, 66 RR2d 514, 515-516 (1989) (petitioner adversely affected because it competed with station).

II. HAILEY, IDAHO IS NOT A SEPARATE COMMUNITY UNDER THE COMMISSION'S ALLOTMENT PRIORITIES

Petitioner has claimed that the allotment of Channel 294C to Hailey, Idaho would satisfy the Commission's Rules by providing the community with its first full-time aural service. Under the Commission's allotment criteria, priority for broadcast service should be set forth in the following order: (1) first full-time aural reception service; (2) second full-time aural reception service; (3) first local transmission service; and (4) other public interest factors. FM Channel Policies and Procedures, 90 F.C.C.2d 88, 90-93 (1982), recon. denied 56 RR 2d 448 (1994) (FM Channel Policies). Instead of blindly applying these priorities, the Commission has noted that "granting a dispositive preference to an applicant proposing a first local service . . . has the potential to produce anomalous results that would seem to contravene the original statutory mandate of Section 307(b)" Faye and Richard Tuck, Inc., 3 FCC Rcd 5374 (1988) ("Faye"). In light of this flexibility, the Commission has adopted certain exceptions to its criteria to allow for a more efficient distribution of broadcast service.

One of the primary exceptions to the presumption that every separate community needs at least one local transmission service was initially established in Huntington Broadcasting Co. v. FCC, 192 F.2d 33 (D.C. Cir. 1951). In Huntington, the Court adopted the premise that where “integrally related communities constitute a single metropolitan transmission service area, individual communities’ needs should be presumed satisfied by the aggregate of stations in the area.” Beaufort County Broadcasting Co. v. FCC, 787 F.2d 645, at 654 (D.C. Cir. 1986) (citing Huntington, 192 F.2d at 33). The Commission traditionally considered the following four criteria under the Huntington exception:

- (1) power and class of station;
- (2) interdependence or independence of the specified “community” to the central city of the “urbanized area”;
- (3) size and proximity of the specified “community” to the central city; and
- (4) signal population coverage and relevant advertising market.

Debra D. Carrigan, 100 F.C.C. 2d 721, at 729 (1985).

The Commission has since modified these categories, however, and adopted a more flexible approach in its analysis. See Faye, 3 FCC Rcd at 5377. The primary focus when analyzing a potential broadcast market should be the characteristics of the specified community of license, rather than technical exhibits and market measurements. Strict application of the criteria might result, as the Commission noted, in an applicant deliberately setting forth limited service contours or some other action that results in an inefficient use of spectrum. Id.

Although the market in which Hailey operates is somewhat unique, in that there is not one single centralized “community,” the principles of Huntington are applicable. The focal point of the market in which Hailey is located in Blaine County, Idaho are the resort activities in and around the Sun Valley Ski Resort. The communities in the region, including Ketchum, Hailey, Bellevue and Sun Valley, Idaho, are all linked by the resort activities in the Sun Valley area.

(“Sun Valley Resort”). According to the Idaho Department of Employment, tourism provides the base for the most employment in the valley, and it is therefore the primary economic motivation for the Sun Valley communities. A report obtained from the Sun Valley Chamber of Commerce that states this information is attached hereto. The communities that comprise the Sun Valley Resort area are located less than 15 miles from the resort area. There are currently two commercial FM stations licensed to Sun Valley, Idaho, KECH-FM and KSKI-FM, one noncommercial station licensed to Sun Valley, KWRV(FM), an application for an allotment on Channel 298C in Sun Valley, Idaho,^{1/} and an FM station KIKX(FM), licensed to Ketchum, Idaho. In addition, KMXM(FM), Gooding, Idaho, provides a signal that covers the Sun Valley region and competes for advertising revenue. All five of these FM stations signals provide complete coverage over the Sun Valley Resort. KSKI-FM for example, which is licensed to E-DA-HOE, has its studio site located two miles away from the community of Hailey and twelve miles from Ketchum, broadcasting items, stories and advertisements that are of local interest to all the Sun Valley Resort communities.

Other factors indicate commonality among the communities in the Sun Valley Resort area. One health care facility, The Wood River Medical Center, provides the primary medical and health care coverage to the entire Sun Valley region. The Sun Valley Resort area is part of one school district, the Blaine County School District. One airport, located in Hailey, serves the Sun Valley Resort area. The entire area is served by two weekly newspapers, Idaho Mountain Express, which advertises itself as serving the Sun Valley Idaho resort area communities, and the Wood River Journal, which in its byline prints that it serves Blaine County and the Sun Valley

^{1/} Certain of the principals of E-DA-HOE are principals in an application for this new Sun Valley channel allotment.

area. Both newspapers publish stories of interest to all the communities in the Sun Valley Resort, and it is logical to assume that the communities share a common advertising market. Further, the World Wide Web site for Sun Valley Resort, located at <http://www.sunvalleyid.com>, states that it is the "Internet presence for the communities of Sun Valley, Ketchum, Hailey and Picabo, Idaho." Based on these factors, each community in the Sun Valley region is so integrally related to each other that the Sun Valley Resort should be considered a single transmission service area. Broadcast stations that serve the area should thus be credited to all the relevant Sun Valley communities.

III. ALLOTING CHANNEL 294A TO TWIN FALLS WOULD BE A
BETTER DISTRIBUTION OF BROADCAST SERVICE UNDER THE
COMMISSION'S RULES

Because the Sun Valley Resort should be viewed as one market for allotment purposes, all relevant stations in the market should be counted. Both Twin Falls and the Sun Valley Resort already have stations licensed to their respective markets. The only relevant criteria for determining the Channel 294A allotment is the benefit the allotment would have to the public interest. FM Channel Policies, 90 F.C.C.2d at 90-93.

The Commission has previously stated that allotting a station to an area that contains a larger population in comparison to a smaller one more than outweighs the loss of the broadcast service to the small community, and therefore satisfies the public interest. See Athens and Atlanta, Illinois, 11 FCC Rcd 3445 (1996); Blanchard, Louisiana and Stephens, Arkansas, 8 FCC Rcd 7083 (1993).

As shown above, there are three commercial and one noncommercial FM station currently serving Sun Valley Resort, with the potential for two more FM stations, the Channel 298C proposed allotment and the Petitioner's Counterproposal to allot Channel 249C to Hailey.

The communities that comprise the Sun Valley Resort region have a combined population of 8,423 people, and the entire Blaine County has a population of 13,552 people.^{2/} Therefore, assuming that the two additional stations are allotted to the Sun Valley Resort, there would be a total of six stations serving the Sun Valley Resort, resulting in a community that would have one station per approximately 1,400 people (or one station for 2,259 people in Blaine County).

In the Twin Falls region there are currently two commercial FM broadcast stations, three noncommercial FM broadcast stations, and three AM broadcast stations -- KEZJ(FM), KLIX(FM), KAWZ(FM), KBSW(FM), KCIR(FM), KEZJ(AM), KLIX(AM), and KTFI(AM). There is a new allotment of Channel 252C1 to Twin Falls, see MM Docket No. 97-28, DA 97-989 (1997),^{3/} as well as the Channel 249 allotment in this proceeding. Twin Falls, Idaho has a population of 27,591 people, while 53,580 people reside in Twin Falls County. Therefore, there is the possibility for ten stations licensed to the Twin Falls market, with one station per 2,759 people (or one per 5,358 people in the county).^{4/} Allotting Channel 294A to Twin Falls, then, would be a much more efficient distribution of the broadcast service and allow the station to serve a larger population, nearly doubling the effective reach of the station. At the same time,

^{2/} United States Census Bureau 1990 Report. Sun Valley, Idaho has a population of 938 people; Ketchum, Idaho has 2,523 people; Hailey, Idaho has 3,687 people; and Bellevue, Idaho has 1,275 people. Id.

^{3/} E-DA-HOE has applied for authority to construct an FM station in this proceeding. FCC File No. BMPH-970731MG.

^{4/} Even if the stations licensed to Jerome, Idaho in Jerome County should be included as part of the Twin Falls service analysis, it would be adding one additional FM station and additional AM station, but would also be adding 6,529 people (15,138 people county wide), further increasing the disparity in comparing the number of stations per people between Twin Falls and Sun Valley Resort.

however, the Sun Valley Resort would continue to be well represented by local broadcast service.

In addition, although the Commission does not place as much weight on the traditional Huntington criteria, it should be noted that Petitioner has proposed an allotment of a Class C station to an area that has been shown to be much smaller in population than the Twin Falls market. Because the current allotment proposes a Class A station, the difference in size and power between the two allotted sites provides further proof that Petitioner's Counterproposal is directed at the entire Sun Valley Resort area, and not exclusively at the community of Hailey.

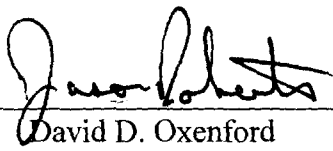
Therefore, because the allotment of Channel 294A to Twin Falls results in a preferential arrangement that provides a net benefit under the Commission's allotment priorities, Petitioner's Counterproposal must be dismissed.

CONCLUSION

Based on the foregoing reasons, E-DA-HOE, Inc. requests that the Counterproposal filed by Hailey Local Service Company to allot Channel 294C to Hailey, Idaho be dismissed, and that the Commission uphold its decision to allot Channel 294A to Twin Falls, Idaho.

Respectfully submitted,

E-DA-HOE, INC.

By: 
David D. Oxenford
Jason S. Roberts

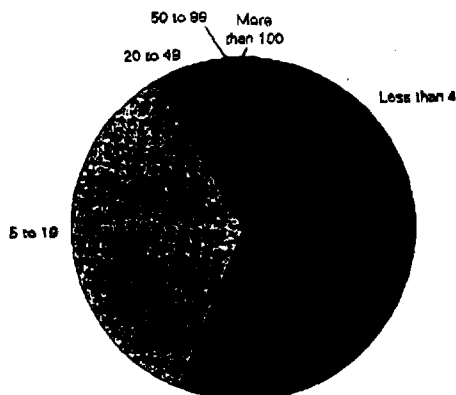
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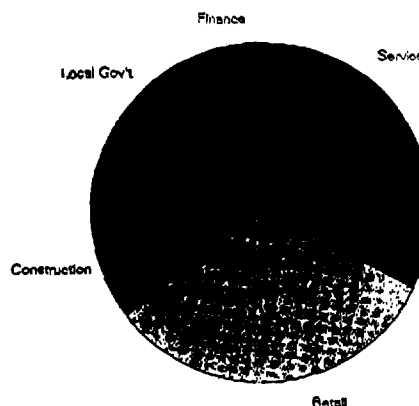
Dated: September 4, 1997

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BLAINE COUNTY BUSINESSES BY STAFF SIZE



BLAINE COUNTY TOP JOBS BY CATEGORY



MAJOR EMPLOYERS

The largest employers in the Wood River Valley include:

Name of Company	Industry	Name of Company	Industry
Sun Valley Resort	Tourism	Blaine County School District	Education
Elkhorn Resort and Golf Club	Tourism	Blaine County	Government
Power Engineers	Business Service	US Forest Service	Government
Wood River Medical Center	Health Care		

Tourism provides the base for most employment in the valley. Ski related tourist activities and lodging offer seasonal jobs in the winter. Summer, spring and fall employment is more diverse, including construction and landscaping, in addition to warm weather tourism-related activities including tennis, golf, fishing and river rafting.

The majority of businesses in the community are small sole proprietor retail and service establishments.

For information on job openings in the Wood River Valley, contact the Idaho Department of Employment Job Service located at 513 North, Main Street, Box 3000, Hailey, ID 83333. (208)-788-3526.

BLAINE COUNTY WAGE SURVEY 1996:

	Entry	Working Range
Accountant	\$9-12/hour	\$10-15/hour
Registered Nurse	\$9-15/hour	\$10-18/hour
Bookkeeper	\$8-10/hour	\$9-15/hour
Clerk Typist	\$6/hour	\$7-8/hour
Secretary	\$6-7/hour	\$9-12/hour
Maintenance	\$6-8/hour	\$8-12/hour
Sales Clerk	\$6/hour	\$6/hr + commission
Waiter/Waitress	\$3.19/hour + tips	\$4.25/hr + tips
Housekeeper	\$5-6/hour	\$6-7/hour
Janitor	\$7/hour	\$7-10/hour
Carpenter	\$10-15/hour	\$15-18/hour

DEMAND OCCUPATIONS BLAINE COUNTY:

(1996 Survey)

Restaurant Cooks	Registered Nurses	Electricians
Plumbers	Painters	Sheet Metal Workers
CDL Truck Drivers	Housekeepers	Cashiers/Sales Clerks

UNEMPLOYMENT RATE: BLAINE COUNTY

ADJUSTED: (October through September)

1987/88	4.9%	1992/93	5.7%
1988/89	4.4%	1993/94	4.7%
1989/90	3.6%	1994/95	4.7%
1990/91	5.3%	1995/96	4.0%
1991/92	6.9%		

CERTIFICATE OF SERVICE

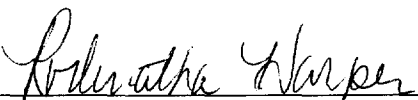
I, Rodenatha Harper, do hereby certify that I have this 5th day of September, 1997,
mailed by first-class United States mail, postage prepaid, copies of the foregoing "**REPLY TO
COUNTERPROPOSAL TO ALLOT FM BROADCAST STATION 294C TO HAILEY,
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***HAND DELIVERY**